

IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

MARK AND TIFFANY BEATY,	§	
	§	
Plaintiffs	§	
	§	
v.	§	
	§	CIVIL ACTION NO. 1:20-cv-00079
GULF STREAM PROPERTY &	§	
CASUALTY INSURANCE COMPANY,	§	
	§	
Defendant.	§	

DEFENDANT’S NOTICE OF REMOVAL

Defendant Gulf Stream Property & Casualty Insurance Company (“Gulf Stream” or “Defendant”) files this Notice of Removal under 28 U.S.C. § 1446(a) and states as follows:

I.
INTRODUCTION

1. Plaintiffs Mark and Tiffany Beaty commenced this lawsuit on October 9, 2019 by filing Plaintiffs’ Original Petition in the 60th Judicial District Court of Jefferson County, Texas – Cause No. B-0204679.

2. Plaintiffs’ Original Petition named Gulf Stream Property & Casualty Insurance Company and Atlas General Agency, LLC, a non-diverse Texas-based LLC, as co-defendants.

3. In its Original Answer, Gulf Stream elected to accept whatever liability Atlas General Agency, LLC had for its actions and/or omissions related to the claim at issue pursuant to TEX. INS. CODE § 542A.006(a).

4. As required by TEX. INS. CODE § 542A.006(c), the parties’ Joint Motion to Dismiss Defendant Atlas General Agency, LLC with Prejudice was granted on January 31, 2020, removing Atlas General Agency as a Defendant.

5. Thus, Gulf Stream files this Notice within the 30-day time period required by 28 U.S.C. § 1446(b). This Notice is being filed in the U.S. District Court for the Eastern District of Texas, Beaumont Division, which is the proper federal court for the removal of this lawsuit.

II.

BASIS FOR REMOVAL

6. Venue is proper in this District under 28 U.S.C. § 1441(a) because the state court where the action is pending is located in this District.

7. Removal is proper under 28 U.S.C. § 1332(a) if there is complete diversity between the parties and the amount in controversy exceeds \$75,000, exclusive of interest, costs and attorney's fees. These two conditions are satisfied in this matter.

A. Removal is Proper Because Complete Diversity of Citizenship Exists Between Plaintiffs and Gulf Stream.

8. Plaintiffs Mark and Tiffany Beaty were at the time this lawsuit was filed, and at the date of this notice remain, Texas citizens. Accordingly, Plaintiffs are Texas citizens for the purposes of diversity of citizenship.

9. Defendant Gulf Stream was at the time this lawsuit was filed, and at the time of this Notice remains, a Florida insurance company with its principal place of business in Florida. Gulf Stream is thus a citizen of Florida for the purposes of diversity of citizenship.

10. Because Plaintiffs are citizens of Texas and Gulf Stream is a citizen of Florida, complete diversity of citizenship exists between Plaintiffs and Gulf Stream (now and on the date Plaintiffs filed this lawsuit).

B. Removal is Proper Because Plaintiffs' Claimed Damages Exceed This Court's Jurisdictional Threshold of \$75,000.

11. If it is facially apparent that Plaintiffs' claims in this suit exceed \$75,000, exclusive of interest, costs, and attorney's fees, then Gulf Stream's burden to establish that the amount in controversy exceeds this Court's jurisdictional threshold is satisfied.¹

12. Here, Plaintiffs' Original Petition states that Plaintiffs seek to recover more than \$200,000 but less than \$1,000,000 in this lawsuit.² It is thus facially apparent that Plaintiffs' claims exceed this Court's jurisdictional threshold of \$75,000.

**III.
CONCLUSION**

13. Because there is complete diversity between the parties and the amount in controversy exceeds \$75,000 (excluding interest, costs, and attorney's fees), removal of this action is proper under 28 U.S.C. § 1332(a).

14. Pursuant to 28 U.S.C. § 1446(d), a true and correct copy of this Notice will be filed with the clerk of the District Court of Jefferson County, Texas after Gulf Stream's filing of this Notice.

15. As required by 28 U.S.C. § 1446(a), and Local Rule CV-81, a copy of each of the following are attached to (or filed with) this Notice:

- a. A list of the parties in the case and their party type, attached hereto as **Exhibit A**;
- b. A civil cover sheet, attached hereto as **Exhibit B**;
- c. A copy of the state court docket sheet, attached hereto as **Exhibit C**;
- d. A copy of Plaintiffs' Original Petition, attached hereto as **Exhibit D**;

¹ *Allen v. R&H Oil & Gas Co.*, 63 F.3d 1326, 1335 (5th Cir. 1999).

² See Plaintiffs' Original Petition at ¶ 15.04.

- e. A copy of the Return of Service on Defendant Atlas, attached hereto as **Exhibit E**;
- f. A copy of the Return of Service on Defendant Gulfstream, attached hereto as **Exhibit F**;
- g. A copy of Defendants' Original Answer, attached hereto as **Exhibit G**;
- h. A copy of Defendants Gulf Stream Property & Casualty Insurance Company's Amended Verified Answer, attached hereto as **Exhibit H**;
- i. A copy of the Joint Motion to Dismiss Defendant Atlas General Agency, LLC Pursuant to Tex. Ins. Code § 542A.006, attached hereto as **Exhibit I**;
- j. A copy of the Court's Signed Order of Dismissal with Prejudice, attached hereto as **Exhibit J**;
- k. A List of Attorneys involved in the action, attached hereto as **Exhibit K**;
- l. A record of which parties have requested trial by jury, attached hereto as **Exhibit L**;
and
- m. The name and address of the court from which the case is being removed, attached hereto as **Exhibit M**.

16. Pursuant to 28 U.S.C. § 1446(d), written notice of filing of this Notice will be given to all adverse parties promptly after the filing of this Notice.

17. For the foregoing reasons, Defendant Gulf Stream hereby provides notice that this action is duly removed.

Respectfully submitted,

ZELLE LLP

By: /s/ Eric K. Bowers

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**ATTORNEYS FOR DEFENDANT
GULF STREAM PROPERTY &
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CERTIFICATE OF SERVICE

This is to certify that a true and correct copy of the foregoing Notice of Removal was served on all counsel of record on February 28, 2020, in accordance with the Federal Rules of Civil Procedure, as follows:

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